

Blue Ridge Environmental Defense League

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April 6, 2021

Jocelyn G. Boyd, Esquire
Chief Clerk & Administrator
Public Service Commission of South Carolina
101 Executive Center Drive, Suite 100
Columbia, South Carolina 29210
contact@psc.sc.gov

RE: Docket No. 2020-247-A

**Public Service Commission Review of Regulations Chapter 103
Pursuant to S.C. Code Ann. Section 1-23-120(J)**

Dear Administrator Boyd:

On behalf of the Blue Ridge Environmental Defense League and its members in South Carolina, I write to provide comments in the above captioned matter. In particular, I wish to apprise the commission of the circumstances regarding a proposed intrastate natural gas pipeline and the experience of certain landowners in the pipeline's path. Also, I request to participate in the workshop regarding electric systems and gas systems now scheduled for April 16, 2021.

Our members are confronted with a proposed 14-mile natural gas pipeline in the Pamplico community of Florence County. One of these members is Rev. Reatha Hyman Jefferson. On July 9, 2020, Rev. Jefferson received a "Notice of Condemnation and Tender of Payment," a Civil Action in the Court of Common Pleas ("Notice"). The document identifies the 33.4-acre property handed down to her which is in the pipeline's proposed path. The Notice details the interest sought by condemnor Dominion Energy South Carolina ("DESC") as: "the right of ingress, egress, and access to and from the right of way across and upon the property as may be necessary or convenient..." for the company to construct, maintain and operate a new 16-inch diameter pipeline carrying gas, oil or any other liquid. The Notice further states that a "negotiated resolution has been attempted" and that the company will proceed with "taking possession of the property interests" unless an agreement is reached. DESC offered compensation of \$150.

However, Rev. Jefferson wants nothing to do with a pipeline on her land and has said so in no uncertain terms. In a letter dated July 3, 2020, she states, "On last Thursday, June 26, 2020, I received this notice addressed to my great grandfather." (Rev. Jefferson is an heir of Andrew H. Hyman, who is listed as landowner in Florence County records dated March 18, 1912.) She continued, "Is this another attempt to aggravate me, from Dominion Energy and Gas?" She has been badly treated by those representing the pipeline company. She reports that a month after a public meeting at the local high school a company man came to her door and was "rude" and told her he was "giving you one

last attempt to sign these papers or I'll turn it over to a lawyer." The importuning Utility Land Service agent, the language of the Dominion Energy SC Notice, and the entire process are coercive. That is the reason Rev. Jefferson and others have reached out to us and it is the reason we appear before the Public Service Commission.

The existing rules governing the taking of private property for pipelines—the Eminent Domain Procedure Act S.C. Code Ann. § 28-2-70, et al. ("Act")—give every advantage to the private company seeking to build a profit-making pipeline and little recourse to the private landowner suffering condemnation.

SECTION 28-2-30 (19) of the Act states:

"Public works project" means any work or undertaking which is financed in whole or in part by a federal agency or a public body, or is administered or supervised or regulated by a federal agency or a public body.

"[A]ny work...regulated by...a public body" is overbroad, not sufficiently restricted to a specific subject or purpose. As written, this has a chilling effect on constitutionally protected conduct; that is, the right of a private individual to own property.

SECTION 28-2-70 (A) of the Act states:

Before initiating a condemnation action, the condemnor shall cause the property to be appraised to determine the amount that would constitute just compensation for its taking and shall make the appraisal available to the landowner.

That the "condemnor shall cause the property to be appraised" hands to the private company the right to determine the value of private land it seeks to take for its own use. Appraisals vary, and shopping for appraisers partial to the company is not prohibited. And the landowner has little recourse as paragraph C of the same section holds that "A landowner shall have no cause of action for trespass arising out of the exercise of authority pursuant to this section."

SECTION 28-2-90 (3) of the Act states:

A condemnor may take possession of property...upon deposit with the clerk of court in the county in which the property to be condemned is situated, the amount stated in the Condemnation Notice as just compensation for the property, the amount having been determined by the condemnor pursuant to Section 28-2-70(a) before initiating the action;

Again, the ultimate decision-making power is placed in the hands of the private company, "[J]ust compensation for property...determined by the condemnor," the party who stands to benefit from the seizure of private property.

In a Petition to Stop the Pipeline currently circulating in Pamplico, Rev. Jefferson writes:

As descendants of slaves, the heirs of Mr. Andrew Hyman are calling upon all of you, to stand and protect the community we all love. Some of you are descendants, some heirs of property, and some of you are property owners. But all of us will be affected by the proposal of the Riverneck to Kingsburg 16-inch Gas Main Line. You probably have received some type of notification by now that Dominion Energy is planning new pipelines to pump their gas throughout our families' land. They are using the terminology "eminent domain" to secure the rights to invade your property, and say it is for the good of the community. This is not true; it is not for the good of the community.

As the Commission considers the current regulations in its formal review under this docket, we ask that it implement changes to rebalance the system which no longer works for the good of the community, to take into account the impacts of its decisions on the people of Pamplico and other communities who face similar unwanted intrusions. The experience of Rev. Jefferson is the tip of the iceberg; there are many like her who support a landowner bill of rights. I understand that the Commission's review centers on Section 103, but we recommend action wherever it is possible. The rules drafted by Southern Environmental Law Center—Subarticle 9, New Pipelines §103-495 Construction of Pipeline in An Area Where the Gas Utility Does not Currently Have a Pipeline—make an excellent beginning.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Louis A. Zeller", followed by a horizontal line.

Louis A. Zeller, Executive Director
Blue Ridge Environmental Defense League